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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,356	06/19/2006	Jacqueline Jones	9242	2385

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Legal Department (M-495)
P.O. Box 1926
Spartanburg, SC 29304

EXAMINER

JUSKA, CHERYL ANN

ART UNIT	PAPER NUMBER
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1794

MAIL DATE	DELIVERY MODE
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01/08/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/552,356	Applicant(s) JONES, JACQUELINE	
	Examiner Cheryl Juska	Art Unit 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-16, 18 and 20 is/are pending in the application.
- 4a) Of the above claim(s) 8, 10-12, 16, 18 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 13-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group I, product claims 1-7 and 13-15 in the reply filed on October 1, 2008, is acknowledged. Method claims 8, 10-12, 16, 18, and 20 are hereby withdrawn as non-elected.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-7 and 13-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Said claims are indefinite because the claims limit the areas of visual texture to provide the impression of "at least two pile directions on each tile." However, the claims lack antecedent basis for the claimed pile directions since said claims do not positively recite that the carpet tiles comprise pile. Note a carpet tile does not inherently include a pile surface.

Claim Rejections - 35 USC § 102/103

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-7 and 13-15 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over US 5,959,632 issued to Hashimoto et al.

Hashimoto discloses a set of patterned carpet tiles comprising at least two tiles (e.g., four) with coordinating color and pattern printed thereon (abstract, col. 1, lines 9-14, and Figures 11A, 11B, 12A, 12B, and 15A-15C). Specifically, the carpet tiles are printed to have at least two areas of “visual texture” comprising a background color or pattern and a design color or pattern (e.g., circles, triangles) (see cited figures). The patterns on the Hashimoto carpet tiles may be printed in a single operation or in several printing (i.e., write) steps wherein the tile is rotated between printing steps (col. 12, line 40-col. 13, line 2 and col. 15, lines 12-49).

Note applicant’s “visual texture” limitation which provides the impression of differing pile directions is inherently met by the printed background and design colors or patterns. In other words, a mere change in color and/or pattern can provide at least the *impression* of different pile directions on each tile. Thus, claims 1-7 and 13-15 are anticipated by the cited Hashimoto reference.

In the alternative, it would have been readily obvious to one skilled in the art to print a pattern such that it would create the appearance of a different pile direction. Motivation to do so

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would be to enhance the non-directional orientation of the carpet tile for ease of installation.

Therefore, claims 1-7 and 13-15 are rejected as being obvious over the cited prior art.

Claim Rejections - 35 USC § 102

8. Claims 1, 4-7, and 15 are rejected under 35 U.S.C. 102(b) as anticipated by US 2002/0136855 issued to Daniel et al.

Daniel discloses a series of carpet tiles having “orthogonal ambiguity” wherein said tiles can be laid in any side-by-side orientation with respect to adjacent tiles without looking out of place to the ordinary viewing regarding pattern alignment and/or pile or nap direction (abstract and sections [0004] - [0006]). Said orthogonal ambiguity is achieved by patterning the carpet tile with certain design features (sections [0015] - [0026]). Thus, claims 1 and 4 are anticipated by the cited Daniel reference.

Regarding claims 5-7 and 15, while Daniel does not necessarily teach the specific limitations of said claims, the claims are rejected along with claims 1 and 4. Specifically, claims 5-7 and 15 are drawn to method limitation within product claims. As such, said limitations are not given patentable weight at this time. In order to be given patentable weight, a method limitation must materially affect the final product in a structural manner. The presence of process limitations on product claims in which the product does not otherwise patentably distinguish over the prior art, cannot impart patentability to the product. *In re Stephens*, 145 USPQ 656. The method of making the product claim does not distinguish the presently claimed product from the prior art product. Therefore, claims 5-7 and 15 are also rejected.

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Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl Juska whose telephone number is 571-272-1477. The examiner can normally be reached on Monday-Friday 10am-6pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached at 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Cheryl Juska/
Primary Examiner
Art Unit 1794

cj
January 8, 2009